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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,281	07/18/2003	Patrick L. Watson	EKIN:1001	2401
34725	7590	03/08/2006	EXAMINER	
CHALKER FLORES, LLP			CHAU, MINH H	
2711 LBJ FRWY			ART UNIT	
Suite 1036			PAPER NUMBER	
DALLAS, TX 75234			2854	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H.F

Office Action Summary	Application No. 10/623,281	Applicant(s) WATSON ET AL.	
	Examiner Minh H. Chau	Art Unit 2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 37-44** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Malloy et al.** (US # 5,577,947) in view of **Schilli et al.** (US # 5,552,869).

With respect to **claim 37**, **Malloy et al.** teach a method of applied a scent to an article, comprise the steps of applying a scented ink or scented gel carrier to a substrate and drying or curing the scented ink or scented gel carrier (col. 4 of Malloy et al.)

Malloy et al. teach all the limitations, except for the curing the scented ink or scented gel carrier at a temperature is at about or less than the flashpoint of the scent.

Schilli et al. teach a method for drying liquid or ink at a temperature below or less than the flashpoint of the liquid or ink (cols. 2-3 of Schilli et al.)

In view of this teaching, it would have been obvious to one of skill in the art to modify the method steps of **Malloy et al.** to include the step of drying liquid or ink at a temperature below or less than the flashpoint of the liquid or ink at taught by **Schilli et al.** to assure the curing process of the scented ink or scented gel applied on the substrate can be carry out properly.

With respect to **claim 38**, see col. 4, lines 10-18 of **Malloy et al.** that teach the step of applying a protective coating to the substrate.

With respect to **claim 39**, see col. 5 of *Malloy et al.* that teach the step of applying a protective coating to the scented ink or scented gel carrier.

With respect to **claim 40**, see col. 5, lines 34-36 of *Malloy et al.* that teach the scented ink or scented gel carrier is applied to the substrate by spraying.

With respect to **claim 41**, see col. 3 of *Malloy et al.* that teach fragment oil of the scent is added and mixed with the ink and then applied to the substrate, the scent is not generally visible during the use of the article.

With respect to **claim 42**, see col. 3 of *Malloy et al.* that teach fragment oil of the scent is colorless.

With respect to **claim 43**, see col. 4 of *Malloy et al.* that teach the scented ink or scented gel is applied to substrate by screen printing.

With respect to **claim 44**, see Fig. 1 of *Malloy et al.* that teach the steps of an article manufacture.

Response to Remarks/Arguments

3. Applicant's arguments filed December 21, 2005 have been fully considered but they are not persuasive.

With respect to **claims 37-44**, the Applicant argued that "Malloy does not disclose, teach or suggest all the claim elements of claims 37-44. Malloy relate to making balloon, having a printed image thereon, a scent corresponding to the image, by adding fragrant oil to the printing ink prior to printing the images on the balloons", and "Mallory does not apply a gel carrier, merely fragrant oil added directly to the printing

ink. The addition of the oil directly to the ink does not provide a mechanism to retain the scent". The Examiner respectfully disagrees with the Applicant's opinion because **Malloy et al.** do teach a method for applying a fragrant or a scent to a substrate including the steps of applying scented ink or scented gel carrier to a substrate and then drying or curing the scented ink or scented gel carrier (col. 4). It is noted that the scented ink (combination mixture of printing ink and fragrant oil) is performing as a scented gel carrier; and the step of printing or applying a scented ink to a substrate as taught by **Malloy et al.** meet the broad recitation of "applying a gel carrier to a substrate" as recited in claim 37.

The Applicant also argued that "Schilli does not disclose teach or suggest all the claim elements of claims 37-44" and "Schilli does not teaching applying a scented ink to a substrate at all, merely a method and apparatus for drying liquid toners". It is true that **Schilli et al.** do not teach applying scented ink or scented gel carrier to a substrate. However, the **Schilli et al.** reference have been used in combination with **Malloy et al.** to meet the recitation of "curing the scented gel carrier at a temperature below or less than the flashpoint of the scent". **Malloy et al.** teach a step of drying or curing the scented ink or scented gel carrier (col. 4, lines 60+), and while **Malloy et al.** do not teach drying or curing scented ink or scented gel carrier at a temperature below or less than the flashpoint of the scent. **Schilli et al.** teach a method of drying or curing liquid or ink at a temperature below of less than the flashpoint of the liquid or ink (cols. 2-3); and the method of **Malloy et al.** have been modify to include the step of drying or curing the ink at a temperature below of less than the flashpoint of the ink as taught by **Schilli et al.**

to assure the curing process of the scented ink applied on a substrate can be carry out properly. Therefore, claims 37-44 rendered obvious in view of the teaching of **Malloy et al.** and **Schilli et al.**

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh H. Chau whose telephone number is (571) 272-2156. The examiner can normally be reached on M - TH 9:30AM - 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H. Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2854

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHC
March 03, 2006


MINH CHAU
PRIMARY EXAMINER